

Application No. 10/816020 (Docket: CNTR.2207)
37 CFR 1.111 Amendment dated 10/23/2006
Reply to Office Action of 09/28/2006

REMARKS/ARGUMENTS

In the Office Action, the Examiner noted that claims 1-20 are pending in the application. The Examiner additionally stated that claims 1-9, 11, 12, 14, and 17-20 are rejected and that claims 10, 13, 15, and 16 are objected to. By this amendment, claims 2-3, 10, and 15 have been cancelled and claims 1, 5, 8, and 14 have been amended. Hence, claims 1, 4-9, 11-14, and 16-20 are pending in the application.

Applicant hereby requests further examination and reconsideration of the application, in view of the foregoing amendments.

In the Specification

The Examiner objected to the specification because paragraph 2 does not contain the serial number of the copending application. In response, Applicant has amended the specification to include the required serial number and asks that the objection be withdrawn.

In addition, Applicant has amended the specification to secure a substantial correspondence between the claims amended herein and the remainder of the specification. No new matter is presented.

In the Claims

Double Patenting Rejections

The Examiner issued provisional rejections of claims 1-4, 8, 11-12, 14, and 17-20 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending application No. 10/816004 (Docket: CNTR.2216), filed on 04/01/2004. The Examiner noted that although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application contains every limitation of the claims in the instant application.

By this amendment, claims 2-3 have been cancelled, thereby rendering the Examiner's rejections moot.

With regard to claims 1, 4, 8, 11-12, 14, and 17-20, Applicant provides herewith a terminal disclaimer to obviate a provisional double patenting rejection over a pending

Application No. 10/816020 (Docket: CNTR.2207)
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“reference” application that disclaims, except as provided therein, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/816004 (Docket: CNTR.2216), filed on 04/01/2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application.

Accordingly, Applicant respectfully requests that the examiner withdraw the rejections of claims 1, 4, 8, 11-12, 14, and 17-20.

Allowable Subject Matter

The Examiner objected to claims 3-4, 10, 12-13, and 15-20 as being dependent upon a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and amended or disclaimed to overcome the double patenting rejection set forth above.

Applicant appreciates the Examiner’s consideration and indications of allowability of these claims. By this amendment, the allowable limitations of claim 3 (and intervening claim 2) have been incorporated into the language of claim 1, the allowable limitations of claim 10 have been incorporated into the language of claim 8, and the allowable limitations of claim 15 have been incorporated into the language of claim 14. Claims 2-3, 10, and 15 have been cancelled and those claims depending from claims 2-3, 10, and 15 have been amended to now depend from claims 1, 8, and 14, as appropriate.

In that Applicant herewith provides the above-noted terminal disclaimer to overcome the provisional double patenting rejections and has amended claims 1, 8, and 14 to incorporate subject matter that has been indicated as being allowable, it is noted that the objections of claims 3, 10, and 15 are rendered moot and it is requested that the objections of claims 4, 12-13, and 16-20 be withdrawn.

Application No. 10/816020 (Docket: CNTR.2207)
37 CFR 1.111 Amendment dated 10/23/2006
Reply to Office Action of 09/28/2006

Rejections Under 35 U.S.C. §103(a)

The Examiner rejected claims 1, 5-7, and 14 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6259293 to Hayase et al. in view of Applicant's Admitted Prior Art (AAPA). Applicant respectfully traverses and notes that the allowable limitations of claims 2-3 have been incorporated into the language of claim 1 and the allowable limitations of claim 15 have been incorporated into the language of claim 14, thus rendering claims 1 and 14 allowable over the prior art of record. It is accordingly requested that the rejections of claims 1 and 14 be withdrawn.

With respect to claims 5-7, these claims depend from claim 1 and add further limitations that are neither anticipated nor made obvious by Hayase et al., AAPA, or a combination of Hayase et al. and the AAPA. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 5-7.

The Examiner rejected claims 2, 8-9, and 11 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6259293 to Hayase et al. in view of Applicant's Admitted Prior Art (AAPA) and US Patent No. 7019577 to Agrawal. Applicant respectfully traverses and notes that the allowable limitations of claims 2-3 have been incorporated into the language of claim 1 and the allowable limitations of claim 10 have been incorporated into the language of claim 8, thus rendering claims 1 and 8 allowable over the prior art of record. It is accordingly requested that the rejection of claim 8 be withdrawn.

By this amendment, claim 2 has been cancelled, thereby rendering the Examiner's rejection moot.

With respect to claims 9 and 11, these claims depend from claim 8 and add further limitations that are neither anticipated nor made obvious by Hayase et al., AAPA, Agrawal et al., or any combination of Hayase et al., the AAPA, or Agrawal et al.. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 9 and 11.

Application No. 10/816020 (Docket: CNTR.2207)
37 CFR 1.111 Amendment dated 10/23/2006
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CONCLUSIONS

In view of the arguments advance above, Applicant respectfully submits that claims 1, 4-9, 11-14, and 16-20 are in condition for allowance. Reconsideration of the rejections is requested, and allowance of the claims is solicited.

Applicant earnestly requests that the Examiner contact the undersigned practitioner by telephone if the Examiner has any questions or suggestions concerning this amendment, the application, or allowance of any claims thereof.

I hereby certify under 37 CFR 1.8 that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date of signature shown below.

Respectfully submitted,
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